

TOWN MANAGER
Ken Deal

TOWN CLERK
Pamela Mills

TOWN ATTORNEY
Tom Brooke



MAYOR
Charles Seaford

TOWN COUNCIL
Don Bringle
Arthur Heggins
Brandon Linn
Rodney Phillips
Steve Stroud

TOWN OF CHINA GROVE

A regular meeting of the China Grove Town Council

Tuesday, October 6, 2020
6:00 p.m.

China Grove Town Hall
China Grove, North Carolina

CALL TO ORDER

Mayor Seaford called the regular meeting of October 6, 2020 to order. He led us in the Pledge of Allegiance.

Mayor Seaford called roll. All council members were physically present with the exception of Mr. Linn, he was present via phone. There was a quorum.

Mr. Bringle made a motion to adopt the agenda. Mr. Heggins seconded the motion, which carried unanimously.

Consent Agenda items:

- a) Approve Minutes from September 1st, 2020 regular meeting
- b) Adopt Budget Ordinance Amendment
- c) Adopt Ordinance 2020-01 to close the northbound lane of Main St for the Cruise In

Mr. Phillips made a motion to approve the consent agenda. Mr. Bringle seconded the motion, which carried unanimously.

CITIZENS COMMENT

Michelle Gonzalez – 511 W Kirk Street

She stated she is here with a petition to reduce the speed limit on Kirk Street from 35 mph to 25 mph. She stated there are a lot of cars speeding on her road. She stated the road has several dips and pot holes and would like to request repairs to the road. She stated the petition is signed by a majority of the residents on the street.

QUASI-JUDICIAL HEARING

- I) 2020-Z-02, 2020-CUP-02 & 2019-S-02 Collin's Walk

Mrs. Price swore in Franklin Gover, Assistant Town Manager, Eddie Moore, McAdams, Matt Pannell, Lennar Homes, Dale Rigsby, Donna Hale, Karen Reed for testimony during the hearing.

Mr. Gover handed out the procedures for a Quasi-Judicial hearing. He stated the applicant is requesting a rezoning from the current expired Suburban Residential/Mixed Residential Conditional Use district to a Mixed Residential Conditional Use district on Rowan County Tax Parcels 114 007 and 115 169. He stated the subject

parcels are approximately 175 acres and one parcel front Shue Road. He stated the request to rezone is to accommodate a major residential subdivision with 50 and 60 foot wide lots. He stated a conditional use district is established to address situations where a particular use may be acceptable but the general zoning district is not. He stated a Conditional Use Rezoning district is voluntary and intended for firm development plans. He stated the Council has approved four other conditional use zoning districts. He stated in 2019 the Council consider a subdivision to an adjoining parcel but the applicant withdrew the application. He stated in 2005 the Council approved a conditional use rezoning for the subject parcels allowing a major subdivision under a previous UDO. He stated when the current UDO was adopted in 2006 those zoning districts were change to their current proximation which is RS and RM. He stated the development had a number of 8,500 sq. ft. lots, 10,000 sq. ft. lots and 20,000 sq. ft. lots. He stated the conditional use was never utilized and the parcels were never developed. He stated without legislative action the subject parcels can not be developed. He stated in the vicinity of these parcels there is Suburban Residential districts, Town Residential and Mixed Residential. He stated one of the entrances to the proposed development would be off of Collins Road. He stated there is plenty of capacity on HWY 29 and part of the driveway permit NCDOT is requiring a deceleration turn lane into Collins Road. He stated NCDOT is also requiring repair and top coat Collins Road. He stated Collins Road is in good condition and is 20 ft. wide. He stated they are proposing two entrances off of Shue Road. He stated NCDOT is requiring improvements to the Shue Road/Main Street intersection and a deceleration lane into the first entrance. He stated the RS district is a low density single family zoning district with 30 ft. front set backs, 10 ft. side, 35 ft. rear, and 70 ft. minimum lot width with the density at 3 units per acre. He stated the RM district has a range of 10-25 ft. front set backs, 5 ft. side, 25 ft. rear, and 50 ft. minimum lot width with the density at 15 units per acre. He stated the average width of the lots in the area are 100 ft. He stated Railroad Ave is an RM district with an average lot width of 50 ft. He stated Millers Grove development is a RT Conditional Use district with 60 ft. lots. He stated the RS district is typically located on the outskirts of town. He stated the Land Use Plan recommends Rural Residential future land use category. He stated the Rural Residential category is designed for residential purposes that preserve the existing rural character. He stated the design of the neighborhood should maximize the preservation of the rural character and preserve open space. He stated the design of the proposed neighborhood have some aspects that meet the land use plan. He stated those are dedicated open space, dedicated greenway, access to throughfare, multiple points of entry and good interconnectivity. He stated there are some steep sloops and the applicant is proposing retaining walls to help accommodate the houses on those lots. He stated there are two stormwater ponds. He stated the developer is proposing a pool house and swimming pool, 67 acres total of tree save areas, and a greenway. He stated the proposed subdivision is designed to meet the Mixed Residential districts dimensional criteria however the Mixed Residential district is not seen as compatible with the area. He stated that is why we are going through this conditional use process so Council can place reasonable conditions that may increase compatibility. He stated students that would live in this neighborhood would go to China Grove Elementary, Middle Schools and Carson High School. He stated this neighborhood would be served by Salisbury Rowan Utilities. He stated this project is not located within a water supply watershed area. He stated this project is subject to the town's stormwater management program and permitting requirements. He stated the stormwater facilities are within the five mile airport overlay district and the stormwater engineer is responsible for meeting the requirements. He stated there is regulatory floodplain on the property according to the plat and adopted F.I.R.M. manels. He stated no material evidence has been presented that this development would affect the property values of adjoining or abutting properties. He stated the proposed subdivision's density is two dwelling unites per acre. He stated this is less than the maximum density allowed in the current RS district. He stated the intent of the RM district is to create higher density areas that are typically around downtown and offer a variety of housing choices. He stated Planning Board took a lot at this development several times over the months of August and September ultimately voting 5-1 to recommend approval based on conditions. He stated one condition was the lots backing up to Shue Road should be a minimum of 60 ft. lot width. He stated the Planning Board was also concerned with the design of the homes, he stated they recommended the homes be designed to meet the residential design guidelines of the UDO. He stated the Planning Board did not want to see homes with garages being the prominent visual character of the front façade. He stated after speaking with the Town Attorney and confirmed with the School of Government that we are able to ask the developer to meet the design guidelines. He stated the right of way width is 60 ft. with 24 ft. of pavement width. He stated they are proposing sidewalks on both side with 2 ft. valley curb and gutter.

Eddie Moore, McAdams

He stated he is with McAdams and they are a land development design firm. He stated he is assisting Matt Pannell with Lennar Homes. He stated before he discusses the site Mr. Pannell would like to talk about Lennar.

Matt Pannell, Lennar Homes

He stated he is the land acquisition manager for the Charlotte division. He stated Lennar Homes is a national home builder founded in 1954. He stated we are based out of Miami and currently building in 21 states. He stated in the Charlotte region we have 26 active communities priced anywhere from the mid to high \$200,000 to \$400,000.

Mr. Moore stated he would like to talk about the regional market realities we are facing today. He stated in 2019 the US Census Bureau estimated that 853 people move here to the region in a week. He stated that is roughly 122 new people per day. He stated China Grove is located in a growth corridor that is expected to increase within the next five years. He stated the cost of construction and cost of land is not at equilibrium to the amount of people moving to this market every day. He stated with that said we are requesting RM-CU with a density of just of two homes an acre. He stated the development would be a mixture of 50 and 60 ft. lot widths with a total of 373 lots all single family detached homes. He stated the RS and RM district have a maximum density of 3 and 15. He stated we do not need that many units per acre, we need the lot width flexibility. He stated we are proposing 212 50 ft. lots and 161 60 ft. lots. He stated with the 50 ft. wide lots we are committing to minimum side yard set backs of 10 ft. giving a building separation of 20 ft. He stated with the 60 ft. wide lots there will be 15 ft. side yard set backs giving a building separation of 30 ft. He stated these homes are being spaced greater than what was presented last year for the other development. He stated 47 % of the site will be preserved as tree save.

Mr. Bringle asked if the total space in between homes for a 50 ft. lot would be 10 ft. or 20 ft. Mr. Moore stated the total space would be 20 ft. with each lot having a 10 ft. side set back on the 50 ft. lots. Mr. Bringle asked if at one point the side set back was 5 ft. with a total of 10 ft. between each home. Mr. Moore stated the 5 ft. side set back is typical for a lot in a development and we changed it to meet the set back based on the product proposed for the lot. Mr. Bringle asked if the total space in between homes for a 60 ft. lot would be 30 ft. Mr. Moore stated yes.

Mr. Moore stated after working with the Planning Board we have twelve conditions that are place and must be followed as part of the conditional use rezoning. He stated one is we can not exceed the density or number of lots proposed. He stated we are proposing a 4,800 linear ft. easement that can be developed as a greenway. He stated the Planning Board requested that 4,000 linear ft. be built as a soft trail system. He stated we are limiting the primary building materials as part of the development that is similar to the ordinance. He stated we are proposing a million dollar pool house and swimming pool facility in the center of the development. He stated we are proposing homes with all front load garages with carriage style hardware. He stated NCDOT is requesting three improvements to the entrances of the development. He stated the Planning Board requested to turn the lots along Shue Road to 60 ft. lots and Lennar is agreeing to that condition. He stated the one condition the Planning Board requested that Lennar Homes nor does the underline property owner consent to this condition. He stated this condition has to do with the placement of the garage in relation to the front of the house. He stated the way the General Statue reads this condition cannot be applied directly or indirectly as part of the approval of the conditional use permit. He stated this is a huge investment for China Grove and Lennar wants to be great neighbors. He stated they will be here for a long time developing this project. He stated he hopes the Council had an opportunity to read the September 28th memo that was sent to the Town Clerk. He stated within that there was a legal opinion by Collin Brown of Alexander Ricks. He stated Mr. Brown is a land use attorney in the region. He stated he agrees with our assessment that this condition cannot be applied as part of the conditional use permit. He stated also included in that memo was a case study with examples of Mint Hill, Davidson, and Huntersville. He stated these three communities have the most stringent ordinances

we have to abide by. He stated when this law was enacted they had to proactively change their ordinances to reflect the position of the garage cannot be imposed. He stated the reason they did that was the Council realized that there was a potential for a challenge. He stated should this be turned down as a result of not meeting this UDO there is a potential for a challenge. He stated the question has come up several times of why Lennar cannot offer more 60 ft. lots. He stated this site has 102 ft. of elevation change from the east side of the site down to Grants Creek. He stated as a result of that there will be retaining walls that will be necessary. He stated there are 10 on site protected streams.

Mr. Linn was excused from the meeting at 6:53 p.m.

Mr. Moore stated on the eastern side of the site there is shallow weathered rock or solid bed rock. He stated with this it creates a challenging design with trenches made into the bed rock to lay the infrastructure. He stated all the stormwater facilities cannot be retention ponds due to the proximity of the airport. He stated they have to be bio retention sand filters.

Mr. Bringle asked if the bio retention sand filters are mechanical. Mr. Moore stated these are not they are plant material and sand.

Mr. Moore stated Lennar has done a market study as to the pricing of the lots and all 60 ft. lots is not feasible for this site. He stated if developed the town would gain 373 homes with an average sale price of \$250,000. He stated development would start in the fourth quarter of 2022 and end in 2028. He stated this project would generate a tax base of \$93,250,000. He stated during the six years of construction the town would collect \$1,500,000. He stated after that the town would collect \$500,000 each year based off the current tax structure.

Mr. Gover handed out a memo about the design guidelines that was sent to everyone on September 10, 2020 and an email that came from David Owens with the School of Government for the record. Mr. Gover stated he disagrees with Mr. Moore. He stated in 2015 there was some legislation that said municipalities cannot impose design guidelines on a home. He stated but as part of a conditional use rezoning if they agree to it you can ask for certain design guidelines. He stated if they do not agree to the condition then the Council can deny it.

Mayor Seaford opened the Quasi-Judicial hearing.

Dale Rigsby, 506 Shue Road

He stated he has lived here for 35 years; the town is peaceful and crime rate is low. He stated he has noticed in the last couple of years every piece of property that a home can be built on is being developed. He stated he knows the highway development is bringing more people to the area due to the land being so expensive in Charlotte. He stated the contractors make the money and move on. He stated there has been several developments in the area with houses that have burned down due to the proximity of the homes. He stated it is great to have more people in the area but with more people it means more crime. He stated he does not want this town to end up like Mooresville.

Donna Hale, 613 Shue Road

She stated she has lived there for four years and come from Mooresville because of the rat race. She stated in 2008 the property had a proposed development of 300 homes and now we are seeing a proposed development of 373 homes. She stated the lots have gotten smaller and the development bigger. She stated most of the houses are going to entrance and exit from Shue Road. She stated she does not believe Shue Road can handle that much traffic. She stated with the area being in a flood plain when it rains and the area floods who will be responsible for the damage. She stated the road frontage is too small and does not keep the rural character.

Karen Reed, 360 Collins Road

She stated she has lived there since 1978 and raised three children there. She stated she is on the dead-end portion of the street and has never had traffic. She stated she does not understand why the development would need connect to Collins Road and would ask the Council to consider not having the connection.

Mayor Seaford closed the Quasi-Judicial hearing.

Mr. Linn rejoined the meeting at 7:14 p.m.

Mayor Seaford stated on September 25, 2020 there was a zoom meeting held with the Collins Road residents. He stated Steve Stroud, Rodney Phillips, Eddie Moore, Matt Pannell, Ken Deal, Franklin Gover, and his self were present and the meeting. He stated we were shown a site plan with lot sizes and house sizes. He stated all the homes that were shown were 30 ft. in width. He stated they agreed to meet the conditions to build a pool house and swimming pool facility, soft build a greenway system, move the first entrance to the development off of Shue Road a small amount to split tow residents across the street. He stated seven property owners were on the zoom that are not opposed to the development but are to the connectivity to Collins Road. He stated NCDOT is requesting a right hand turn onto Collins Road from HWY 29 and a surface coat of asphalt at the end of construction. He stated this development would bring more people into the town and increase our tax revenue. He stated the homes that Lennar builds are a high construction quality home then other builders out there.

Mr. Phillips stated there are pros and cons of a development like this. He stated we do not like the 50 ft. and 60 ft. lot mixture but sometimes we need to consider people wanting to move to a town like ours. He stated while we would like to see all 60 ft. lots, he believes they have done a great job at describing why this is not possible. He stated it is hard to turn down the half a million dollar tax revenue that we would gain.

Mr. Bringle stated we would not see the half a million dollar revenue until 2028. He stated we would start seeing some tax revenue in 2023 after construction beings in 2022. He stated a concern of his is the width between the homes. He stated the width between the homes did increase from 10 ft. to 20 and 30 ft. between homes and he was pleased with the increase. He stated he thinks the improvement to Shue Road is a great addition. He stated he would have liked to see larger lots and less homes. He stated he knows the homes will sale.

Mr. Heggins stated the lot size is a concern of his as well. He stated he agrees with the comment from one of the residents about fire safety and how close the house would be built.

Mr. Linn stated the lot size is a concern of his as well. He stated his number one concern is the fire safety crew. He stated when homes are built this close together you typically do not worry about the house on fire you try to keep it from spreading to the house on each side.

Mr. Stroud stated he came to China Grove in 1981 as Chief of Police. He stated he still lives here because of the small town it still is. He stated we all know our neighbors and help each other out. He stated he realizes that growth is coming but he does not want to become Salisbury or Mooresville. He stated he does realize we need some type of growth to maintain operating expense. He stated he has paid attention to these densely populated developments and a lot are an eyesore. He stated he does not like what these types of developments do to a community.

Mr. Stroud made the motion to deny 2020-Z-02 because it is not consistent with the China Grove Land Use Plan based on the fact the proposed minimum lot size, lot width, and maximum density of the Mixed Residential District are not compatible with the low density single family residential recommendations of the Rural Residential future land use category. Mr. Linn seconded the motion, which was carried with a vote of 4 to 1 with Mr. Phillips being the opposing vote.

Mr. Linn was excused from the meeting at 7:36 p.m.

PUBLIC HEARING

I) 2020-Z-04 Manufactured Home Residential to Neighborhood Center

Mr. Gover stated the applicant is requesting a zoning map amendment to Rowan County Tax Parcel 117 210 from Manufactured Home to Neighborhood Center. He stated the address is 160 Shue Road and is .43 acres. He stated the property is currently vacant and a single section manufactured home occupied the property before. He stated 704 Motorsports is located across the street. He stated Neighborhood Center future land use category typical surround the central business district. He stated N-C promotes retail and service uses which are accessible to the surrounding residents. He stated

Mayor Seaford opened the Public hearing.

There were no comments from the public.

Mayor Seaford closed the Public hearing.

Statement of Consistency and Reasonableness

Mr. Bringle made a motion that 2020-Z-04 is appropriate and necessary to meet the development needs of China Grove for the following reasons not previously envisioned by the China Grove Land Use Plan. 2020-Z-04 is consistent with the intent of the neighborhood center future land use category and the adjacent property. Furthermore, the adoption of 2020-Z-04 is deemed an amendment to the China Grove Land Use Plan and is reasonable and in the public interest based on the following facts that it is located near an intersection of Main Street and Hwy 29 and would provide automobile and pedestrian connections to the surrounding area as recommended by the China Grove Land Use Plan. Mr. Heggins seconded the motion, which was carried unanimously.

2020-Z-04

Mr. Phillips made the motion to approve 2020-Z-04 the request to rezone Rowan County Tax Parcel 117 210 from Manufactured Home to Neighborhood Center. Mr. Stroud seconded the motion, which was carried unanimously.

II) 2020-Z-05 Suburban Residential to Manufactured Home Residential

Mr. Gover stated the applicant is requesting a zoning map amendment to Rowan County Tax Parcels 128A013 and 128 095 from Suburban Residential to Residential Manufactured Home. He stated the parcels are located in the 1100 block of John Street and is 2.07 and .73 acres. He stated this is located in the ETJ. He stated John Street splits both properties and the remnant portions are within regulatory floodplain without an identified Base Flood Elevation. He stated Planning Board voted unanimously and felt it was consistent with the area.

Mayor Seaford opened the Public hearing.

There were no comments from the public.

Mayor Seaford closed the Public hearing.

Statement of Consistency and Reasonableness

Mr. Phillips made a motion that 2020-Z-05 is consistent with the China Grove Land Use Plan because it is consistent with the Rural Residential future land use category being a single manufactured home on individual lots. Furthermore, the adoption of 2020-Z-05 is reasonable and in the public interest based on the following fact the design would preserve the existing rural character and offer larger lots. Mr. Bringle seconded the motion, which was carried unanimously.

2020-Z-05

Mr. Phillips made the motion to approve 2020-Z-05 the request to rezone Rowan County Tax Parcels 128A013 and 128 095 from Suburban Residential to Residential Manufactured Home. Mr. Bringle seconded the motion, which was carried unanimously.

Mr. Linn rejoined the meeting at 7:53 p.m.
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III) 2020-Z-06 Central Business to Town Residential

Mr. Gover stated this is a zoning map amendment sponsored by the town to rezone portions of properties between W Ketchie Street and Park Street from Central Business to the surrounding Town Residential zoning district. He stated the properties are all developed with single family uses permitted within the RT district. He stated the rezoning area would join a large existing Town Residential district.

Mayor Seaford opened the Public hearing.

There were no comments from the public.

Mayor Seaford closed the Public hearing.

Statement of Consistency and Reasonableness

Mr. Bringle made a motion that 2020-Z-06 is appropriate and necessary to meet the development needs of China Grove for the following reasons not previously envisioned by the China Grove Land Use Plan due to the fact this would join a large existing Town Residential district. Furthermore, the adoption of 2020-Z-06 is deemed an amendment to the China Grove Land Use Plan and is reasonable and in the public interest based on the following fact that the properties are developed with single family homes. Mr. Phillips seconded the motion, which was carried unanimously.

2020-Z-06

Mr. Phillips made the motion to approve 2020-Z-06 the request to rezone portions of Rowan County Tax Parcels 102 074, 102 218, 102 061, 102 062, 102 063, 102 220, and 102 075 from Central Business to Town Residential. Mr. Stroud seconded the motion, which was carried unanimously.

NEW BUSINESS

- I) Adopt Resolution Directing Town Clerk to Investigate Petition for Annexation

Mr. Bringle made a motion to adopt the Resolution directing the Town Clerk to investigate the sufficiency of a petition for annexation for Rowan County Tax Parcel 119 006. Mr. Stroud seconded the motion, which carried unanimously.

OTHER BUSINESS

Mayor Seaford read a letter aloud that the town received from a resident thanking the Public Works Department for collecting her items from the curbside.

ADJOURNMENT

Mr. Stroud made a motion to adjourn. Mr. Linn seconded the motion, which carried unanimously.

Respectfully Submitted,

Pamela L. Mills, CMC
Town Clerk

Charles Seaford
Mayor